



WISCONSIN REGULATORY DIGEST

A Publication of the NURSING HOME ADMINISTRATOR EXAMINING BOARD

Volume 9, No. 1

June, 1998

Governor Tommy Thompson Appoints New Board Members

Omar Barberena

Omar Barberena, Milwaukee, WI has been appointed by Governor Tommy Thompson and confirmed by the Senate to be a member of the Nursing Home Administrator Examining Board.

Mr. Barberena is currently employed as a Purchasing Agent & System Analyst for United Community Center in Milwaukee. In addition to these administrative responsibilities, Mr. Barberena has also been involved in providing youth and family case management services at the United

Community Center and has assisted in providing a variety of other services and programs to students and families in the Milwaukee area. Mr. Barberena is a graduate of the University of Wisconsin-Milwaukee with a degree in International Relations and Spanish Literature. Mr. Barberena will fill the board slot formerly held by Lorayne M. Ritt of Waukesha and his term will expire on July 1, 2001. Senate confirmation of this appointment is required.

Roland M. Hammer, M.D.

Dr. Roland M. Hammer, River Falls, WI has been appointed by Governor Tommy Thompson and confirmed by the Senate to be a member of the Nursing Home Administrator Examining Board.

NURSING HOME ADMINISTRATOR EXAMINING BOARD

Members of the Board:

Shirley Keller, Chair (Mt. Horeb)
Karen R. Davis-Robinson, Vice Chair (Bloomer)
Rhoda Zarie Arzoomanian, Sec. (Verona)
Omar Barberena (Milwaukee)
Anita Genrich (Sparta)
Roland Hammer (River Falls)
Nancy Harper (Madison)
Robert F. Mulder, Jr., (West Salem)
Phyllis Tschumper (Madison)
Judith A. Wheeler (Washburn)

Administrative Staff:

Alfred J. Hall, Jr., Bureau Director

Executive Staff:

Marlene A. Cummings, Secretary
Patricia McCormack, Deputy Secretary
Myra Shelton, Executive Assistant

Dr. Hammer has served as a Staff Physician at River Falls Medical Clinic in River Falls, WI since April of 1983 and as a General Practitioner in the River Falls area since July of 1951. Dr. Hammer is a graduate of the University of Minnesota where he obtained a B.S. in Pharmacy and an M.D. degree. Dr. Hammer has also been affiliated with a wide variety of local, state and national civic, medical and fraternal organizations over the past three decades.

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Dr. Hammer has been appointed to fill the board slot formerly held by Dr. E.R. Jonas of Ellsworth and his term will expire on July 1, 2001.

Board Member Update: Reappointment of Robert Mulder, Jr., Retirement of Dr. Jonas and Ms. Ritt

The Board would like to congratulate Robert Mulder, Jr. on his reappointment to the Board to serve for the term ending July 1, 2002.

The Board would like to congratulate Dr. E.R. Jonas and Lorayne Ritt for their eight years of board service as its physician and public member. Dr. Jonas provided the Board with his medical insight and sensitivity for other board members. Ms. Ritt will be remembered for her strong public member role. Her desire to protect the health, safety and welfare of the citizenry of Wisconsin, was always the first thought in her mind. Ms. Ritt has been the Board's Representative to the Citizen Advocacy Center annual meetings. Both the Nursing Home Administrator Examining Board and the Department of Regulation will miss the contributions of both Dr. Jonas and Ms. Ritt. We wish them both well in their future endeavors.

Complaints Against Licensees

Complaints are processed in the following manner:

All complaints received by the Nursing Home Administrator Examining Board and the Department are routed to the Division of Enforcement (DOE) where they are logged into the computer and given a number.

Complaints are screened by several board members and the supervisor of the DOE prosecutors and the supervisor of the DOE investigators. The complaint screening process results in a decision to open or not open a complaint for investigation. Sometimes additional information is requested of the complainant at this stage of the process. Most boards are now moving toward screening complaints at least once a month.

If a complaint is opened for investigation, it is assigned to a team in DOE. Teams consist of prosecutors, investigators, legal assistants and, in some cases, auditors. A specific prosecutor and investigator is assigned to the case and the investigator commences an investigation as soon as possible. The investigation generally includes corresponding with the complainant, the licensee and other people with relevant information. Documents are reviewed and the investigator often interviews people to obtain more information.

A board member is assigned to the case as an advisor. The board member offers suggestions to the investigator and, after the investigation is concluded,

the advisor recommends that the case be closed for a certain specified reason or that the case proceed to possible disciplinary action.

If the case advisor recommends possible disciplinary action, a prosecutor reviews the file and requests additional investigation, if needed. The prosecutor usually offers the licensee an opportunity to agree to a resolution of the matter. The offer may be in the form of a written stipulation for some type of discipline, such as a revocation, suspension, limitation, reprimand, and/or an assessment of all or part of the costs of the investigation and prosecution. If the licensee rejects the stipulation, the attorney schedules a hearing before an administrative law judge. The hearing is like a trial and the licensee may have an attorney represent him or her. After the hearing, the administrative law judge prepares a proposed decision and refers it to the Board.

If a case advisor recommends that a case be closed, the case is reviewed by the Board at its next meeting and the Board either concurs or refers the case for disciplinary action. Stipulations and proposed decisions are also referred to the Board for final disciplinary action. If the Board disagrees with a proposed stipulation, the Board may refer the case back to the prosecutor for more negotiations or, possibly, a hearing. If the Board disagrees with a proposed decision of an administrative law judge, it may change parts of the proposed decision, but it will have to explain why it is making the change.

There is considerable due process built into the complaint process. Licensees or their attorneys are given many opportunities to respond to proposals and to object to decisions. Ultimately, if a licensee disagrees with the Board's disciplinary decision, the licensee may appeal the case to the Circuit Court.

Letters are sent to complainants and licensees during various stages in the process, informing them of receipt of a complaint and the final disposition of a complaint.

Definition of Terms and Description of Reasons for Case Closings

Lack of Jurisdiction

- There is no authority to act regarding the subject matter of the complaint.
- There is authority to act on the subject matter of the complaint, but no authority to act regarding the person or entity in question.
- There is no authority to act on the subject matter of the complaint, and no authority to act regarding the person or entity in question.

Insufficient Evidence for Prosecution

This category assumes that jurisdiction over the subject matter and person or entity in question exists.

- There is insufficient evidence to meet the standard of proof required to prove that a violation occurred.

No Violation of Statutes or Rules

This category assumes that jurisdiction over the subject matter and person or entity in question exists.

- There is sufficient evidence to show that no violation of statutes or rules occurred.
- There is sufficient evidence to show that the credential holder took all reasonable steps to provide qualified personnel to assure the health, safety and rights of the resident.

Administrative Closure

- There is a duplicate complaint; a file was opened in error; or, the Respondent named is incorrect.

Prosecutorial Discretion

Prosecutorial discretion refers to the discretion of the regulatory authority to not impose discipline.

This category assumes that jurisdiction over the subject matter and person or entity in question exists.

- There may have been a minor or technical violation but a decision was made not to commence formal disciplinary action because the incident in question was not seriously harmful to the public.
- There may have been a minor or technical violation but a decision was made not to commence formal disciplinary action on the grounds that compliance with statutes or rules has been gained.
- There may have been a violation which is more significant than a minor or technical violation but not a violation which caused serious harm, and a determination has been made that the expenditure of resources required to pursue the violation would greatly exceed the value to the public of having the matter pursued.
- The conduct of the credential holder may constitute negligence but does not constitute practice below the minimal standards of the profession.
- There may have been a violation, but because the person or entity in question cannot be located or is no longer actively practicing or does not have a current credential to practice, a decision was made to close the case and place a "HOLD" on the credential. In the event that the person or entity is located, an application for renewal of the credential is received or the credential is renewed, the case may be reopened and reconsidered.
- There may have been a violation, but litigation is pending which involves the credential holder and affects the the licensing authority's ability to investigate the case. At the conclusion of the litigation, the case will be reviewed and the licensing authority may consider the case once again.

- There may have been a violation, but the regulatory authority has taken action in regard to this credential holder which addressed the conduct and makes further action unnecessary.

Board Member Requirements and Roles

The Nursing Home Administrator Examining Board is made up of two public members, one physician member, one nurse member, five nursing home administrator members and the designee of the Department of Health and Family Services (as a non-voting member). The Board member requirements for all members are: be a Wisconsin resident; shall not be an officer, director or employee of a private organization which promotes or furthers the profession regulated by the Board. No more than two members may be officials or full-time employees of the state. No member may serve more than two consecutive full four year terms.

The public board members shall not be or ever have been licensed or engaged in any profession licensed or otherwise regulated by the Board, nor married to any licensee, nor employ, be employed by or be associated professionally with any board licensee. Public members may not be engaged in any occupation or profession concerned with the delivery of physical or mental health care.

NAB Conference Report

The National Association of Boards of Examiners of Long Term Care Administrators (NAB) annual conference will be held June 17-19, 1998, in Pittsburgh, Pennsylvania. Karen Davis-Robinson has been selected as the Board's delegate and Robert Mulder, Jr., has been selected to be the alternate to the convention.

NHA Registration Statistics

Nursing Home Administrators

1125

Renewal and Continuing Education Information

REMINDER: START EARLY

The next NHA renewal is July 1, 1998. Twenty-four (24) hours of Board-approved continuing education credits are required. remember to keep your records unless they are requested by the department. Records should be kept for at least 5 years.

Licensees DON'T need to send in verification of taking continuing education courses. Licensees should keep the copies themselves.

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Nursing Home Administrator
Examining Board
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Madison, WI 53708-8935

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Telephones

The Division of Business Licensure & Regulation has a menu telephone system which is designed to more efficiently direct the caller to the appropriate section. The telephone number for staff is:

(608) 266-5511

After dialing this number you are asked to press various menu choices. For the following requests, please press numbers as noted:

Application Forms	Press 11
Complaints Against Licensees	Press 12
Verification of Licensure and	
Name/Address Changes/Renewal	Press 21
Practice Questions	Press 42
Application Processing & Requirements	Press 42
FAX number 608-267-3816	

Verifications

Requests for verifications to other states must be in writing. The cost is \$10. Please make out check or money order to the Department of Regulation and Licensing.

1998 Dates to Remember

Board Meetings: June 18, Aug. 20, Oct. 15, Dec. 16.

Exams: July 9, October 8

All meetings are held at 1400 E. Washington Ave., Madison, WI, and are open to the public and subject to cancellation without notice. Please call to confirm dates.

Visit the Department's Web Site

<http://badger.state.wi.us/agencies/drl/>

Send comments to dorl@mail.state.wi.us

Wisconsin Statutes and Code

Copies of the Nursing Home Administrator Examining Board's Statutes and Administrative Codes can be ordered from the Department. Include your name,

address, county and a check payable to the Department of Regulation and Licensing in the amount of \$5.28. The latest edition is dated June, 1997.

Change of Name or Address?

Please photocopy the mailing label of this digest, make changes in name or address, and return it to the Department. Confirmation of changes are not automatically provided.

WIS. STATS. S. 440.11 ALLOWS FOR A \$50 PENALTY TO BE IMPOSED WHEN CHANGES ARE NOT REPORTED WITHIN 30 DAYS.

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